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October 17, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

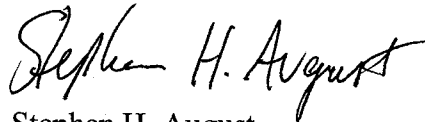
Re: NSTAR Gas Company, D.T.E. 02-12

Dear Secretary Cottrell:

Enclosed for filing, please find Motion of NSTAR Gas Company for Protective Treatment of Confidential Information. A non-redacted copy of the information for which protection is being requested (Record Request AG-3) is being provided to the Hearing Officer.

Thank you for your attention to this filing.

Sincerely,



Stephen H. August

Encl.

cc: Denise Desautels, Hearing Officer (w/non-redacted copy)
Carol R. Wasserman, Esq.
Wilner Borgella, Jr. Esq. (w/non-redacted copy)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

NSTAR Gas Company)
_____))
_____)

D.P.U. 02-12

**MOTION OF NSTAR GAS COMPANY
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

NSTAR Gas Company ("NSTAR Gas" or the "Company") requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential and competitively sensitive information submitted in this proceeding in accordance with G.L. c. 25, § 5D. The Company requests that the Department protect from public disclosure the asset management payment included in the Gas Sales and Purchase Contract Between Dynergy Marketing and Trade ("Dynergy"), as set forth in an attachment to Record Request AG-3.

I. LEGAL STANDARD

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has held that:

... [T]he burden on the company is to establish the need for protection of the information cited by the company. In determining the existence and extent of such need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest.

The Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 16 (1994) as cited in Hearing Officers Ruling On the Motion of Boston Gas Company for Confidentiality, D.P.U. 96-50, at 4 (1996).

In practice, the Department has often exercised its authority to protect sensitive market information. For example, the Department has determined specifically that competitively sensitive information, such as price terms, are subject to protective status:

The Department will continue to accord protective status when the proponent carries its burden of proof by indicating the manner in which the price term is competitively sensitive. Proponents generally will face a more difficult task of overcoming the statutory presumption against the disclosure of other terms, such as the identity of the customer.

Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Order (August 30, 1996). See also Colonial Gas Company, D.P.U. 96-18, at 4 (1996) (the Department determined that price terms were protected in gas supply contracts and allowed Colonial Gas Company's request to protect pricing information including all "reservation fees or charges, demand charges, commodity charges and other pricing information").

Moreover, the Department has recognized that competitively sensitive terms in a competitive market should be protected and that such protection is desirable as a matter of public policy:

The Department recognizes that the replacement gas purchases . . . are being made in a substantially competitive market with a wide field of potential suppliers. This competitive market should allow LDCs to obtain lower gas prices for the benefit of their ratepayers. Clearly the Department should ensure that its review process does not undermine the LDCs'

efforts to negotiate low cost flexible supply contracts for their systems. The Department also recognizes that a policy of affording contract confidentiality may add value to contracts and provide benefits to ultimate consumers of gas, the LDCs' ratepayers, and therefore may be desirable for policy reasons.

The Berkshire Gas Company et al., D.P.U 93-187/188/189/190, at 20 (1994). The Department has consistently held that protective treatment is appropriate for information that may affect future negotiations by either constraining the willingness of entities to offer better or more innovative terms or limit the future bargaining ability of the Company. The Berkshire Gas Company, D.T.E. 01-41, at 17 (2001).

II. BASIS FOR CONFIDENTIALITY

The Company seeks protection from public disclosure of price-related contract information that is considered to be confidential, commercially sensitive and proprietary by the Company and Dynergy. Confidential treatment of these terms is essential to protect the competitive positions of the Company and Dynergy in the natural gas market, as well as to protect the necessary bargaining latitude and negotiating leverage in reaching gas-resource arrangements such as the one included in this filing. The Hearing Officer's Ruling in this proceeding, dated July 2, 2002, granted the Company's Motion for Protective Treatment of the identical information, previously provided in response to Information Request DTE 1-79. Consistent with the Department's precedent, the Company is requesting confidential treatment for the asset management payment.

III. CONCLUSION

The Department has consistently held that protective treatment is appropriate for information that may affect future negotiations by either constraining the willingness of entities to offer better or more innovative terms or limit the future bargaining ability of

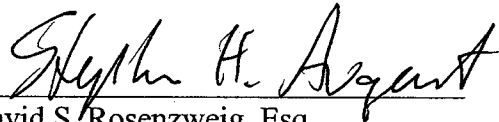
the Company. Disclosure on the public record of the subject information will negatively affect the parties' future bargaining position and could have a negative effect on the Company's customers and the marketplace by dissuading potential suppliers from competing in Massachusetts.

WHEREFORE, the Company respectfully requests that the Department grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

NSTAR GAS COMPANY

By its attorneys,

A handwritten signature in black ink, appearing to read "Stephen H. August", is written over a horizontal line.

David S. Rosenzweig, Esq.

Stephen H. August, Esq.

Keegan, Werlin & Pabian, LLP

21 Custom House Street

Boston, Massachusetts 02110

(617) 951-1400

Dated: October 17, 2002

NSTAR Gas Company
D.T.E. 02-12
Department of Telecommunications and Energy
Record Request: AG-3
Person Responsible: Barbara Stamos
October 16, 2002

Record Request AG-3

Please provide a copy of the two letter agreements entered into between the Company and Dynegy amending Dynegy's asset management agreement.

Response

Please see the attached letter agreements. The July 29, 2002 Agreement contains confidential information that has been redacted. A non-redacted copy will be provided to the Attorney General and the DOER upon the execution of the Company's Nondisclosure Agreement in this proceeding.



NSTAR Services Company
157 Cordaville Road, Southborough, Massachusetts 01772-1897

June 27, 2002

Miles N. Allen III
Dynegy Marketing and Trade
101 Merrimac Street, 2nd Floor
Boston, MA 02114

Re: Gas Sale and Purchase Contract dated October 26, 2001

Dear Miles:

I write to confirm our recent agreement on the disposition of the storage capacity rights, previously released to Dynegy by NSTAR Gas under the referenced agreement, and the gas (commodity) in inventory under the associated storage accounts. Dynegy and NSTAR Gas have agreed that, effective July 1, 2002, all rights associated with the Tetco/Algonquin and Tennessee Storage Services referenced in Appendix A to the Agreement will be recalled by NSTAR Gas. All right, title and interest to the gas in storage under these various Services shall be granted to NSTAR Gas. NSTAR Gas would then assume responsibility for nominating injections and withdrawals out of storage per your instructions, again subject to the terms of the Agreement. Dynegy shall remain responsible for re-filling that Storage to the Initial Storage Balance, at Dynegy's expense, as provided in Section 3.3.2 of the Agreement.

Thank you for your cooperation, and please indicate your concurrence by signing and returning one copy of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nem Jain", written over a horizontal line.

Nem Jain

Director of Gas Supply Planning & Procurement

ACKNOWLEDGED AND ACCEPTED:

Miles N. Allen
DYNEGY MARKETING AND TRADE

A handwritten signature in dark ink, appearing to read "Miles N. Allen", written over a horizontal line.

Title: SR VICE PRESIDENT
Date: 6/27/02



NSTAR
ELECTRIC
GAS

157 Cordaville Road Southborough, Massachusetts 01772

REDACTED

July 29, 2002

Mr. Miles N. Allen III
Dynergy Marketing and Trade
101 Merrimac Street, 2nd Floor
Boston, Massachusetts 02114

re: Gas Sales and Purchase Contract Between Dynergy Marketing and Trade
and NSTAR Gas Company dated October 26, 2001

Dear Miles:

I write with reference to the above Agreement. As you know, pursuant to the terms of this Agreement, Dynergy Marketing and Trade (Dynergy) has agreed to supply the majority of the NSTAR Gas Company (NSTAR Gas) firm service requirements, for the period November 1, 2001 through October 31, 2002, and NSTAR Gas has assigned or released to Dynergy certain firm transportation rights for that same period. In addition, Dynergy was assigned or released rights to certain NSTAR Gas firm storage contracts; and was entitled to withdraw the associated gas in inventory, provided that during the period April 1, 2002 through October 31, 2002 Dynergy replaced such withdrawn quantities (such that by the end of the term of the Agreement, the associated storage accounts would be 95 per cent full). The Agreement calls for NSTAR Gas to pay Dynergy for delivered supplies in accordance with the price indices specified in the Agreement. Finally, the Agreement requires Dynergy to pay on a timely basis the charges associated with the aforementioned transportation and storage rights, and further to pay NSTAR Gas, as consideration for the rights granted to Dynergy under the Agreement.

Given the adverse changes in the financial condition of Dynergy and its parent, Dynergy, Inc. (which provided a guaranty of Dynergy's obligations under the Agreement), NSTAR Gas and Dynergy previously agreed to grant back to NSTAR Gas the right and title to the gas in storage, and the associated storage rights. Today we further agreed that NSTAR Gas would not be obligated to reimburse Dynergy for NSTAR Gas' transportation demand charges until Dynergy demonstrates that it has paid all applicable pipeline charges. Once Dynergy demonstrates payment, NSTAR will reimburse Dynergy for those applicable charges within 24 hours. Dynergy would remain obligated to continue to supply gas to NSTAR Gas as required by the Agreement, to replace the gas storage inventory shortfall as described above, to pay the remaining management fees due NSTAR Gas, and to continue to satisfy its other obligations under the Agreement. In addition, NSTAR Gas shall have the right to set-off from the payments due Dynergy under the Agreement, any amounts incurred by NSTAR Gas in satisfying Dynergy's obligations under the Agreement, including without limitation the aforementioned gas inventory replacement costs.

Please indicate your acceptance of these terms by countersigning and returning (by fax and overnight mail) one copy of this letter, and thank you for your cooperation in this regard.

Sincerely,

Nem C. Jain
Director, Gas Supply Planning & Procurement

Acknowledged and Accepted:
Dynergy Marketing and Trade

Title: SA Vice President
Date: 7/29/02